

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
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FM AMEMBASSY VIENNA

TO SECSTATE WASHDC IMMEDIATE 6798

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E.O. 11652: N/A

TAGS: EAIR, AU

SUBJECT: CIVAIR: PAN AM FARES REJECTED

REF: (A) STATE 146548; (B) STATE 91359; (C) VIENNA 2801

1. EMBASSY HAS BEEN FOLLOWING PAN AM'S DEALINGS WITH AUSTRIAN CIVAIR AUTHORITIES REGARDING BUDGET/STANDBY FARE AUTHORIZATION AND RECORD IS ESSENTIALLY AS REPORTED REF A. LOCAL PAN AM OFFICE (ACTING ON INSTRUCTIONS FROM US HEADQUARTERS) REQUESTED NEW LOWER FARES MAY 16, SUBJECT TO CAB APPROVAL, AND AUSTRIAN AUTHORITIES REJECTED REQUEST ON MAY 29. AUSTRIANS DID, HOWEVER, MAKE COUNTER-PROPOSAL (PROVIDING US CAB APPROVED), WHICH PAN AM HAS PROPOSED TO ITS HEAD OFFICE.

2. EMBOFF HAS TALKED WITH GOA CIVAIR OFFICIALS WHO INFORMED US THAT (A) PAN AM FARE REQUEST SHOULD HAVE BEEN MADE BY USG AS CONTRACTING PARTY UNDER BILATERAL AGREEMENT; (B) REQUEST WAS NOT MADE 30 DAYS IN ADVANCE AS REQUIRED IN BILATERAL; AND (C) GOA REJECTION WAS FOR REASONS STATED IN LETTER (I.E. QUESTIONS OF "PRINCIPLE AND ECONOMICS"). (FYI - WE HAVE JUST LEARNED FROM PAN
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AM THAT THEY HAVE NOW RECEIVED A FURTHER COMMUNICATION FROM AUSTRIANS EXPLAINING THE REASONS UNDERLYING GOA REJECTION, WHICH RANGE FROM FACT THAT REQUEST WAS NOT SUBMITTED IN GERMAN TO NUMBER OF LEGAL CITATIONS RELATING TO ECONOMIC GROUNDS FOR REJECTION. WITHOUT HAVING SEEN THE COMMUNICATION WE DO NOT SEE THESE AS BASICALLY ALTERING ANYTHING. END FYI) IN EFFORT TO

MOVE CASE ALONG WE AGREED TO RESUBMIT PAN AM'S REQUEST THROUGH THE EMBASSY (WHICH WAS DONE JUNE 13) AND ASKED WHETHER THE GOA WOULD APPROVE IT. GOA AUTHORITIES WERE UNWILLING TO COMMIT THEMSELVES. WE NOW ARE SEEKING APPOINTMENT FOR ECONCOUNS AND PAN AM MANAGER TO DISCUSS CASE WITH LOCAL CIVAIR AUTHORITIES AT VERY EARLY DATE.

3. COMMENT: WE RECOGNIZE THAT GOA IS BEING UNREASONABLY AND INACCURATELY STICKY IN THIS CASE. FOR EXAMPLE, IT IS CLEAR THAT CARRIER NOT EMBASSY IS PARTY AUTHORIZED TO FILE FOR FARES UNDER BILATERAL. HOWEVER, WE RECOGNIZE TOO THAT PAN AM AND USG RELATIONS WITH THE GOA ON CIVAIR ACTIVITIES STILL ARE CLOSE TO DEPTHS REACHED WHEN CONSULTATIONS BROKE DOWN IN MARCH AND THAT WE ARE DEALING WITH A BILATERAL SCHEDULED TO TERMINATE EARLY NEXT YEAR. OVER THE LAST SIX WEEKS WE HAVE WORKED CLOSELY WITH NEWLY ARRIVED PAN AM MANAGER IN EFFORT TO REPAIR RELATIONS BETWEEN CARRIER AND GOA, WHOSE PRIOR DETERIORATION HAD BEEN SOURCE OF MANY PROBLEMS ENCOUNTERED DURING CONSULTATION. PAN AM MANAGER HAS BEEN MOST COOPERATIVE---AND WE BELIEVE SINCERELY APPRECIATIVE---OF OUR GUIDANCE AND SUPPORT, AND HAS TOLD US THAT HE SEES SITUATION EXACTLY AS WE DO. HE IS BEGINNING TO MAKE LIMITED PROGRESS, BUT HAS VERY LONG WAY TO GO.

4. AGAINST THIS BACKGROUND IT IS UNFORTUNATE THAT FARE LIMITED OFFICIAL USE

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CASE HAS AGAIN STARTED THE POT BOILING AND WE CONSIDER IT MOST IMPORTANT THAT IT BE COOLED QUICKLY IN THE INTEREST OF DEVELOPING A HEALTHIER LONG RANGE RELATIONSHIP WITH GOA. PAN AM PRESENTLY IS UNDER PRESSURE FROM HEADQUARTERS TO BEGIN SELLING AT NEW FARES AND HAS SOLICITED OUR ADVICE. WE HAVE TOLD THEM THAT SINCE THE GOA DID REJECT THEIR FILING WITHIN 15 DAYS OF SUBMISSION (I.E. ON MAY 29), AND NOTIFIED EMBASSY OF THIS, THAT IT HAS SATISFIED BILATERAL PROVISIONS SO FAR. TO SELL AT NEW FARES WOULD THUS (IN OUR OPINION) NOT ONLY CONTRAVENE AGREEMENT, BUT WOULD SERIOUSLY PROVOKE THE AUSTRIANS. WHAT WE MUST TRY INSTEAD IS TO "ENDEAVOR TO REACH AGREEMENT ON THE APPROPRIATE RATE" AS PROVIDED IN BILATERAL ARTICLE 13-D(1) AND HOPE TO AVOID THE LENGTHY PROCESS OF ARBITRATION, ETC. WHICH COULD FOLLOW.

5. FINALLY, WE VIEW THE CURRENT CASE AS A PRIME EXAMPLE OF THE POINT STRESSED IN REF C THAT HAVING A BILATERAL IS MUCH MORE IMPORTANT TO US THAN TO THE GOA. PER REF B, WE HAVE WAITED FOR FURTHER APPROACH FROM AUSTRIANS REGARDING NEW NEGOTIATIONS AND NONE HAS BEEN FORTHCOMING. GOA IN FACT FEELS THAT THEIR INVITATION

TO CONTINUE WAS IN RENUNCIATION NOTE, AND WE ARE ONES
WHO HAVE NOT RESPONDED. MOREOVER, DESPITE INDICATIONS
BOGEN MAY HAVE MADE IN WASHINGTON, WE HAVE SEEN NO
EVIDENCE AT ALL THAT AUA HAS ANY INTEREST IN FLYING
TO USA IN ANY FORSEEABLE TIME. IN LIGHT OF ALL THESE
CONSIDERATIONS WE SUGGEST THAT EMBASSY RECOMMENDATIONS
IN REF C BE RE-REVIEWED FOR POSSIBLE EFFORT WHEN PRESENT
SITUATION CAN AGAIN BE STABILIZED. THE ALTERNATIVE,
WE CONTINUE TO FEAR, MAY BE NO CIVAIR AGREEMENT. WOLF

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